

Stipulation of Loan Files and Guidelines in Tranche 3 and 4

December 3, 2013

VIA ECF

The Honorable Denise L. Cote
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1610
New York, NY 10007-1312

Re: *FHFA v. Deutsche Bank AG, et al.*, 11 Civ. 6192, *FHFA v. Goldman Sachs & Co., et al.*, 11 Civ. 6198, and *FHFA v. Credit Suisse Holdings (USA), Inc., et al.*, 11 Civ. 6200 (collectively, the “Tranche 3 Actions”); *FHFA v. HSBC North America Holdings, Inc., et al.*, 11 Civ. 6189, *FHFA v. Barclays Bank PLC, et al.*, 11 Civ. 6190, *FHFA v. First Horizon National Corp., et al.*, 11 Civ. 6193, *FHFA v. Bank of America Corp., et al.*, 11 Civ. 6195, *FHFA v. Nomura Holding America, Inc., et al.*, 11 Civ. 6201, *FHFA v. SG Americas, Inc., et al.*, 11 Civ. 6203, *FHFA v. Morgan Stanley, et al.*, 11 Civ. 6739, and *FHFA v. Ally Financial, Inc., et al.*, 11 Civ. 7010 (collectively, the “Tranche 4 Actions”)

Dear Judge Cote:

On behalf of Plaintiff Federal Housing Finance Agency (“FHFA”), we write to update the Court on the status of the identification and stipulation of Loan Files and Guidelines in the Tranche 3 and 4 Actions, pursuant to the Supplemental Expert Scheduling Order dated February 27, 2013 (the “Supplemental ESO”).¹

Status of Loan File and Guideline Stipulations

FHFA believes that it has now identified a sufficient number of Sample Loan Files for all 240 Securitizations at issue in the Tranche 3 and 4 cases, and does not anticipate further supplementation of its samples.²

FHFA also believes that the parties have completed the stipulation process for 229 out of the 240 Securitizations. For 3 out of the remaining 11 Securitizations – AMSI 2005-R10, ARSI 2005-W5, and GSAMP 2005-HE5 – FHFA supplemented its sample on November 8, 2013. FHFA has identified the supplemental Sample Loan Files for those 3 Securitizations, and intends to exchange proposed stipulations with the Barclays and Goldman Sachs Defendants following the parties’ review of the Loan Files. Additionally, for 2 out of the remaining 11 Securitizations – RAMP 2005-EFC7 and RAMP 2005-NC1 – FHFA proposed additional guidelines applicable to the Sample Loans for those deals on November 12, 2013. Counsel for the applicable defendants (Barclays Capital Inc. and Credit Suisse Securities (USA) LLC, respectively) intend to respond by December 10 and

¹ Capitalized terms used in this status report are intended to have the same meaning as defined in the Supplemental ESO.

² If FHFA learns during its continued review of the Sample Loan Files that further supplementation of its sample is necessary, FHFA will notify the relevant parties and inform them of a schedule for completing its supplementation.

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December 12, respectively. Consequently, FHFA and the Barclays, Credit Suisse and Goldman Sachs Defendants jointly request a short extension, until December 17, 2013, of the deadline for the identification and stipulation of the Loan Files and Guidelines for the Securitizations identified on Exhibit 1.

The final 6 out of 11 Securitizations, which are identified on Exhibit 1, pertain to the *Bank of America* case. As set forth in FHFA's November 5, 2013 status report, FHFA and Bank of America met and conferred regarding issues surrounding the parties' Guideline stipulations for those 6 Securitizations. In its August 2, 2013 status report, and subsequent status reports, FHFA reported to the Court that FHFA and Bank of America had finished exchanging Loan File and Guideline proposals and reaching stipulations for those 6 Securitizations. See August 2, 2013 FHFA Status Report, Exhibit 1. During the process of confirming the Bates ranges to the parties' stipulated Guidelines, Bank of America sent FHFA a spreadsheet setting forth hundreds of new Guideline proposals. Bank of America did not request an extension from the Court of the deadline for exchanging Guideline proposals prior to doing so. On November 4 and November 19, FHFA and Bank of America met and conferred, and on November 22, Bank of America provided updated Guideline proposals.

Bank of America's updated Guideline proposals were also unworkable. First, over 500 Sample Loans have at least 75 Guideline proposals associated with them. No other Defendant has provided even close to this volume of matches for a Sample Loan. Second, Bank of America's proposals are both over- and under-inclusive. For some Sample Loans, Bank of America includes proposals to product guides that are inconsistent with the documentation type of the Sample Loan; for other Sample Loans, Bank of America includes only irrelevant product guides and not the product guide consistent with the documentation type of the Sample Loan. As a result of these issues, on December 2, 2013, FHFA sent Bank of America revised Guideline proposals and requested that Bank of America respond by no later than December 9, 2013.³ In light of the parties' ongoing meet-and-confer process, FHFA requests an extension, until December 17, 2013, of the deadline for the identification and stipulation of the Guidelines for the Securitizations identified on Exhibit 1. FHFA will seek the Court's guidance if the parties remain unable to resolve these issues before December 17.

Finally, pursuant to paragraph 5 of the Court's June 11, 2013 Order Amending the Supplemental Expert Scheduling Order for Tranches 3 and 4, FHFA identified the Sample Loans and Supplemental Sample Loans that it currently anticipates re-underwriting for 237 out of the 240 Securitizations. However, in light of FHFA's November 8, 2013 supplementation and the ongoing stipulation process, FHFA requests an extension to identify the Sample Loans and Supplemental Sample Loans that it intends to re-underwrite for the AMSI 2005-R10, ARSI 2005-W5, and GSAMP 2005-HE5 Securitizations identified on Exhibit 1. FHFA and the Barclays and Goldman Sachs Defendants have agreed to an extension until December 17, 2013.

³ In contrast to Bank of America's proposals, FHFA's Guideline matches include at most 7 documents for a given Sample Loan.

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Stipulations Regarding Guideline and Loan File Matching

FHFA and the Tranche 3 and 4 Defendants continue to meet and confer regarding joint submissions to the Court of the parties' stipulated Loan Files and Guidelines. Specifically, the parties continue to discuss the language of the stipulation in which the parties anticipate entering into and exchange Loan File and Guideline proposals for the Exhibit 1 Securitizations. Consequently, FHFA respectfully requests an extension, until December 17, 2013, of the deadline to submit to the Court the parties' stipulated Loan Files and Guidelines in the Tranche 3 and 4 cases.

As to Defendant Morgan Stanley only, the extension is necessary because Morgan Stanley has, for the last five weeks, disregarded FHFA's numerous requests that Morgan Stanley stipulate to the over 3,000 matches negotiated and agreed-upon over the last six months. Morgan Stanley has known since at least November 5, 2013 that FHFA must begin re-underwriting in the beginning of December to meet the Court's schedule. Only today did Morgan Stanley respond to FHFA's proposed stipulations. Given Morgan Stanley's delayed response to FHFA's proposals for the past five weeks, FHFA hereby reserves its rights to seek costs if Morgan Stanley proposes any new matches that requires FHFA to duplicate its re-underwriting work.

FHFA is available to discuss the status of Loan File and Guideline matching in the Tranche 3 and 4 cases at the Court's request.

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Respectfully submitted,

/s/ Philippe Z. Selendy

Philippe Z. Selendy
(philippeselendy@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010
(212) 849-7000

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. Deutsche Bank AG, and
FHFA v. Goldman, Sachs & Co.*

/s/ Christine H. Chung

Christine H. Chung
(christinechung@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. First Horizon National
Corp., FHFA v. Bank of America Corp., and
FHFA v. Credit Suisse Holdings (USA), Inc.*

/s/ Richard A. Schirtzer

Richard A. Schirtzer
(richardschirtzer@quinnemanuel.com)
Adam Abensohn
(adamabensohn@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. HSBC North America
Holdings, Inc., and FHFA v. Nomura Holding
America, Inc.*

/s/ Manisha M. Sheth

Manisha M. Sheth
(manishasheth@quinnemanuel.com)
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. Barclays Bank PLC*

/s/ Michael A. Hanin

Michael A. Hanin
(mhanin@kasowitz.com)
KASOWITZ, BENSON, TORRES &
FRIEDMAN, LLP
1633 Broadway
New York, New York 10019

*Attorney for Plaintiff Federal Housing Finance
Agency in FHFA v. Ally Financial Inc., FHFA v.
Morgan Stanley, and FHFA v. SG Americas, Inc.*

cc: All Counsel of Record

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Exhibit 1: (Securitizations for which an extension of the stipulation process until December 17, 2013 is requested and for which supplementation is likely not necessary).

No.	Defendant	Securitization
1.	BOA	BOAA 2005-10
2.	BOA	BOAA 2005-11
3.	BOA	BOAA 2005-12
4.	BOA	BOAA 2006-1
5.	BOA	BOAA 2006-2
6.	BOA	BOAA 2006-3
7.	Barclays	AMSI 2005-R10
8.	Barclays	ARSI 2005-W5
9.	Barclays	RAMP 2005-EFC7
10.	Credit Suisse	RAMP 2005-NC1
11.	Goldman Sachs	GSAMP 2005-HE5